

REMARKS

The Examiner maintains the rejections of claims 1-13 under 35 U.S.C. 102(b) or 35 U.S.C. 103(a) as being anticipated by or being unpatentable over Swift et al ("Swift"). In response to Applicants' argument that Swift does not teach or suggest emulating a protocol layer for testing a specified protocol layer in the item under test, the Examiner states that Swift teaches using the messaging system to test specific protocol layer, such as TCP/IP (page 6, paragraph 3 and page 8, paragraph 5 (??)) and that therefore Swift teaches emulating a protocol layer for testing a specified protocol layer in the item under test. Applicants respectfully traverse this improper and nonobvious conclusion by the Examiner.

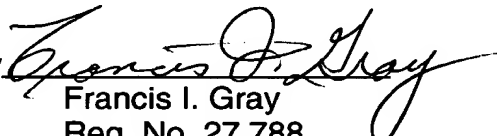
The message generator of Swift produces message sequences that include a series of sequence items, each sequence item having a network source identifier, a data message ("Hello World"), a number of times to send the message (3), and a delay time between message re-transmissions (5 seconds). The message sequence is transmitted from the message generator, which is a general purpose computer, via a TCP/IP communications network to a network object under test for verifying the response of the network object to the reception of the message sequence. TCP (layer 4) and IP (layer 3) are two different protocol layers in the OSI protocol stack. IP enables the switching of packets from source to destination interfaces through routers, while TCP is processed at the endpoints to assure reception of all packets in the message sequence. The message sequence engine in the message generator produces TCP/IP capable applications, i.e., packet-based message sequences. Nowhere in Swift does it recite "*selecting* a protocol layer to be emulated" (emphasis

added), contrary to the Examiner's assertion. In fact Swift specifically states that it is "simulating the production network." The TCP/IP communication network is merely the conduit by which the message sequences are transmitted to the network object under test from the message generator. There is nothing in Swift to indicate that the message sequences are "for testing a specified protocol layer *of the item under test*" (emphasis added) as is recited by Applicants in claims 1 and 8. Therefore claims 1 and 8, together with claims 2-7 and 9-13 dependent therefrom, are deemed to be allowable as being neither anticipated nor rendered obvious to one of ordinary skill in the art by Swift.

In view of the above remarks allowance of claims 1-13 is urged, and such action and the issuance of this case are requested.

Respectfully submitted,

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